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8 Attorney for Plaintiff
9 DAMON MACKBEE

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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

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16 DAMON MACKBEE,
17 Plaintiff,
18 v.
19 KILOLO KIJAKAZI, Acting
20 Commissioner of Social Security,
21 Defendant.

22 Case No. 2:20-cv-02471-JDP
23 STIPULATION FOR THE AWARD AND
24 PAYMENT OF ATTORNEY FEES AND
25 EXPENSES PURSUANT TO THE
26 EQUAL ACCESS TO JUSTICE ACT;
27 {PROPOSED} ORDER

28
1 IT IS HEREBY STIPULATED by and between the parties through their
2 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded
3 attorney fees and expenses in the amount of \$7,450.00, under the Equal Access to
4 Justice Act (EAJA), 28 U.S.C. § 2412(d). This amount represents compensation for all
5 legal services rendered on behalf of Plaintiff by counsel in connection with this civil
6 action, in accordance with 28 U.S.C. § 2412(d).

7
8 After the Court issues an order for EAJA fees to Plaintiff, the government will
9 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to
10 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability

1 to honor the assignment will depend on whether the fees are subject to any offset
2 allowed under the United States Department of the Treasury's Offset Program. After
3 the order for EAJA fees is entered, the government will determine whether they are
4 subject to any offset.

5 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
6 determines that Plaintiff does not owe a federal debt, then the government shall cause
7 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,
8 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

9 This stipulation constitutes a compromise settlement of Plaintiff's request for
10 EAJA attorney fees and does not constitute an admission of liability on the part of
11 Defendant under the EAJA or otherwise. Payment of the agreed amount shall
12 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or
13 Francesco Benavides, including the Law Offices of Francesco Benavides, may have
14 relating to EAJA attorney fees in connection with this action.

15 This award is without prejudice to the rights of Francesco Benavides to seek
16 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings
17 clause provisions of the EAJA.

19 Respectfully submitted,

21 Dated: October 13, 2022

22 Law Offices of Francesco Benavides

23 By: /s/ Francesco Benavides
24 FRANCESCO P. BENAVIDES
25 Attorney for Plaintiff

1 Dated: October 13, 2022

PHILLIP A. TALBERT
United States Attorney
PETER THOMPSON
Acting Regional Chief Counsel, Region IX
Social Security Administration

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3 By: *Marcelo Illarmo**
4 MARCELO ILLARMO
5 Special Assistant U.S. Attorney
6 Attorneys for Defendant
7 (*Permission to use electronic signature
8 obtained via email on October 13, 2022).
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[PROPOSED] ORDER

Based upon the parties' Stipulation for the Award and Payment of Equal Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and expenses in the amount of \$7,450.00 as authorized by 28 U.S.C. § 2412, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: October 17, 2022

Jeremy Peterson
JEREMY D. PETERSON
UNITED STATES MAGISTRATE JUDGE